

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

JOHN BALDWIN, LEONARD BELL,
JOHANNES KAINDOH, WAYNE
HENDERSON, GODWIN ENAGBARE, and
JOE L. WILLIS,

Invervenor-Plaintiffs,

vs.

WASHINGTON GROUP
INTERNATIONAL, INC., RON BENNETT,
MICHAEL FOGARTY, and DENNIS
WOODRUFF

Defendants.

C.A. NO. 04-12097 GAO

JOINT MOTION TO EXTEND DISCOVERY DEADLINE

Plaintiff Equal Employment Opportunity Commission ("EEOC"), Plaintiff-Intervenors Johannes Kaindoh, Leonard Bell, Wayne Henderson, and John Baldwin and Defendants Washington Group International ("WGI"), Ron Bennett, and Michael Fogarty, file this motion to request that the Court allow an additional brief extension of the discovery deadline to enable the parties to complete outstanding discovery. The extension will not interfere with the May 31 status conference date or delay the Court's calendar. In support of this motion, the parties state as follows:

1. Plaintiff EEOC filed a complaint against Defendant WGI, alleging racial harassment, discrimination and retaliation in violation of Title VII. The EEOC filed the action

on behalf of a class of African-American individuals, including six individuals who had previously filed EEOC charges against WGI ("Plaintiff-Intervenors").

2. Four of the Plaintiff-Intervenors, Johannes Kaindh, Leonard Bell, Wayne Henderson and John Baldwin, filed a plaintiff-intervenor Complaint naming WGI, as well as Ronald Bennett, Michael Fogarty, and Dennis Woodruff as Defendants. The other two Plaintiff-Intervenors, Godwin Enagbare and Joe L. Willis, also filed a Complaint to Intervene, naming only WGI as a Defendant.

3. After an unsuccessful attempt to settle this case at a mediation on October 31, 2006, the parties embarked on significant discovery, including over twenty depositions. The parties have cooperated in good faith in this discovery, including accommodating schedules and conducting depositions by video conference when possible.

4. Despite the considerable discovery that has taken place for the past several months, there is some limited discovery that has not been completed. To date, this discovery includes:

- (a) The deposition of WGI's President and CEO, Stephen Hanks. The EEOC noticed Mr. Hanks' deposition and has proposed that Mr. Hanks' deposition occur in late May. WGI has agreed to this request. Mr. Hanks' deposition is currently scheduled for May 23 from 8:00 a.m. to 12:00 p.m.
- (b) The continued depositions of Plaintiff-Intervenors Bell, Kaindh, Henderson, and Baldwin have been noticed by Fogarty's defense counsel, Seyfarth Shaw.
- (c) The deposition of James Shelton has been postponed until late May. The EEOC initially noticed Mr. Shelton's deposition, and recently proposed to WGI that the deposition be postponed to a time at which Mr. Shelton will be back in Massachusetts, as he is currently working out of state. WGI has agreed to this proposal.

- (d) The depositions of potential witnesses Beata Murrell and Kalungi Askia. WGI noticed these depositions on Monday, April 9. These depositions were originally noticed for next Monday, April 16.¹
- (e) The deposition of individual Defendant Dennis Woodruff. Mr. Woodruff's deposition was noticed by Plaintiff-Intervenors' counsel Todd Bennett for April 12, 2007. Mr. Woodruff has failed to appear at this deposition.
- (f) Mr. Bennett also intends to serve written discovery requests directed to Defendant Woodruff.

5. The Court has scheduled a May 31, 2007 status conference, at which time the deadline for service of dispositive motions will be calendared. This schedule was established to allow the parties time to explore the possibility of settlement before having to engage in preparation of dispositive motions.

6. In order to complete discovery, the EEOC, Plaintiff-Intervenors Bell, Kaindoh, Henderson, and Baldwin, and Defendants WGI, Bennett and Fogarty request that the Court extend the discovery deadline from April 16 to May 30, 2007.

7. The parties anticipate that any progress which may be made on settlement negotiations will not be postponed by this extension request.

8. Plaintiff-Intervenors Enagbare and Willis do not oppose this motion, contingent upon the following: (1) WGI's representation that it will make best efforts to have Ms. Murrell and Mr. Askia served and deposed by April 27, 2007, with the understanding that should such efforts fail, WGI will be able to depose these individuals on or before May 30, 2007; and (2) out of state depositions, with the exception of WGI's President and CEO, Stephen Hanks, will be conducted by video-conference if such technology is available. If WGI has videoconference technology available at no cost to WGI for Ms. Hanks' deposition, it will be provided.

¹ The EEOC and Plaintiff-Intervenor Enagbare have reserved the right to object to the taking of Ms. Murrell's deposition on substantive grounds.

For the foregoing reasons, the parties respectfully request that the discovery deadline be extended to and including May 30, 2007, to allow for completion of discovery outstanding as of April 16, 2007, and follow-up discovery which may reasonably flow from it.

Respectfully submitted,

MICHAEL FOGARTY

By his attorney,

/s/ Jennifer A Serafyn

Jennifer A Serafyn (BBO# 653739)
Seyfarth Shaw LLP
World Trade Center East
Two Seaport Lane, Suite 300
Boston, MA 02210-2028
(617) 946-4800

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

By its attorney,

/s/ Markus L. Penzel

Markus L. Penzel (BBO# 642007)
Equal Employment Opportunity
Commission
Boston Area Office
John F. Kennedy Federal Bldg.
Room 475
Boston, MA 02203-0506
(617) 565-3193

Respectfully submitted.

WASHINGTON GROUP INTERNATIONAL, INC. and
RONALD BENNETT

By its attorneys,

/s/ Stephen T. Paterniti

Stephen T. Paterniti (BBO# 564860)
Jackson Lewis LLP
75 Park Plaza
Boston, MA 02117
(617) 367-0025

JOHN BALDWIN, LEONARD BELL
JOHANNES KAINDOH, and WAYNE
HENDERSON,

By their attorney,

/s/ Todd J. Bennett

Todd J. Bennett (BBO# 643185)
Corrigan, Bennett & Belfort, P.C.
404 Main Street, Suite One
Wilmington, MA 01887